

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALEXIO GOBERN,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Respondent.
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 9/30/2021

18-cv-12411 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

On November 4, 2020, I issued an Opinion & Order, and denied Petitioner Alexio Gobern's ("Petitioner" or "Gobern") petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255 ("Petition") seeking to vacate his sentence and conviction after trial in *United States v. Adames*, No. 15-CR-796 (VSB). (Doc. 17.) In my Opinion & Order, I stated that "[b]ecause Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c)(2) (2019)." (*Id.* at 13.) On December 1, 2020, Gobern appealed this decision to the Second Circuit. (Doc. 18.) Soon after, he filed a motion for reconsideration, (Doc. 19), which I denied on August 25, 2021, (Doc. 23). Gobern now requests a certificate of appealability ("COA") regarding my August 25, 2021 denial of his motion for reconsideration. (Doc. 24.) That same day, Gobern again appealed to the Second Circuit. (Doc. 25.) Gobern grounds his request for a COA on a claim of ineffective assistance of counsel. (*See* Doc. 24.) For the same reasons as stated in my Opinion & Order on Gobern's Petition, which addressed Gobern's claim for ineffective assistance of counsel, (*see* Doc. 17), and in my denial of his motion for reconsideration, (*see* Doc. 23), I find that because Gobern has

not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c)(2) (2019). Given that I have denied Plaintiff's request for a COA, he must make his request for a COA to the Second Circuit. The Clerk of Court is respectfully directed to terminate the motion at docket entry 24.

SO ORDERED.

Dated: September 30, 2021
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, slightly stylized font. The first name "Vernon" is written with a large, looping 'V' and the last name "Broderick" is written in a similar cursive style.

Vernon S. Broderick
United States District Judge